

23.03.2022  
Sl. No. 13  
ss

**W.P.A. 13991 of 2021**

**Syeda Rubi Ahmed**

**Vs.**

**The Kolkata Municipal Corporation & ors.**

Mr. Somnath Ghoshal

Mr. Satyajit Senapati

Mr. Dibyendu Nandi

... for the petitioner

Mr. Moloy Krishna Dey

Mr. Sayan Ganguly

... for the State

Mr. Mrinal Kanti Ghosh

Mr. Saunak Bhattacharya

Mr. Sounak Mandal

... for the respondent no.12

Mr. Barin Banerjee

Mrs. Sima Chakraborty

Ms. Sangeeta Roy

... for the K. M. C.

The petitioner is aggrieved by the inaction on the part of the Kolkata Municipal Corporation in initiating proceedings under Section 400(1) of the Kolkata Municipal Corporation Act in respect of a building situated at premises No.T-13/B, Komedan Bagan Lane, Kolkata-700016.

Reliance has been placed on an information given under the Right to Information Act. It appears that the Corporation had informed the petitioner that no sanction plan had been granted in respect of any construction on the premises in question. Such information was supplied on February 19, 2019.

Learned Advocate for the Kolkata Municipal Corporation submits that the authorities did not find any recent construction on the premises in question. It has been further stated in the report that an old building stands on the said premises. The report is taken on record.

Mr. Sounak Bhattacharya, learned Advocate appearing on behalf of the respondent no.12 submits that the construction of the petitioner was also without any permission. That the land is a Thika property and when such construction was made, permission was not necessary.

Having heard the rival contentions of the parties, this Court is of the opinion that the allegations of unauthorised construction, that is, whether the construction has been made without a sanction plan or contrary to the plan and the rules, should be decided by the competent authority under the law.

The complaint of the petitioner dated February 25, 2019 shall be disposed of by the competent authority of Kolkata Municipal Corporation, in accordance with law in the following manner :-

- a) An inspection of the premises shall be conducted.

Such inspection shall be held in the presence of the petitioner and the respondent nos. 7 to 15, within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondents No.7

to 15. If the parties are not available to accept notice, the authorities shall affix the notices of hearing and inspection at conspicuous places in their respective premises.

- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take such interim measures by stopping such construction.
- c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties.
- e) A hearing shall be given to the petitioner and the respondents No.7 to 15. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions, before the competent authority. All points raised by either party, shall be decided. The question of title or boundary dispute, shall not be decided.
- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the statute.

The court has not gone into the merits of the claims and counter-claims of the parties and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

**(Shampa Sarkar, J.)**